

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 2, 2008 has been entered.

2. Status of the claims:

3. Claims 2, 4, 6 and 11-20 are cancelled, claims 1, 3, 5 and 7-10 are pending in the application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 3, 5, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun et al (US 6,600,085 B2).

4. With respect to claim 1, Sun teaches an adhesive bandage (figs. 4 & 5) comprising a wound contacting pad (c. 4, l. 17), comprising: an absorbent nonwoven fabric 24 comprising absorbent fibers and synthetic non-absorbent fibers, the absorbent fibers selected from the group consisting of rayon, cotton, wood pulp (c. 1, ll. 58-59), and the synthetic non-absorbent fibers selected from the group consisting of polyolefins, polyamides and polyesters (c. 1, ll. 60-61), said nonwoven fabric having a basis weight from about 30 gsm to about 150 gsm (c. 2, ll. 11-13), said nonwoven fabric having a first major surface 26 and a second major surface 25 (c. 4, ll. 66-67); and an apertured film 28, 32 secured to at least one major surface 25, 26 of the nonwoven fabric 24.

5. Sun discloses the claimed invention except for the specifically claimed ranges of percent fibers and density.

6. With respect to the ranges of percentages of fibers, optimization of parameters within prior art ranges or through routine experimentation is not sufficient to patentably distinguish the invention over the prior art. MPEP § 2144.05. One of ordinary skill in the art would have recognized that increasing the percentage of absorbent fibers and the density of absorbent material would increase the absorbent capacity of the absorbent core, while reducing it would result in less cost or bulkiness. One of ordinary skill in the art would also have recognized that increasing the percentage of absorbent fibers would result in greater absorption of wound exudates while increasing the percentage of non-absorbent fibers would result in faster strike through time and therefore a drier body contacting surface of a bandage. Additionally, one of ordinary skill in the art would have recognized the benefit of optimizing the absorbency of different layers depending on their function as absorbent or body-contacting layers. Thus, these

parameters are result effective variables, and as such, it would have been obvious to optimize them.

7. With respect to claim 3, Sun teaches the fibers comprising the nonwoven fabric are bicomponent fibers (c. 1, ll. 61-62).
8. With respect to claim 5, Sun teaches the apertured film comprises a polymeric material selected from polyethylene, metallocene catalyzed polyethylene, polypropylene and copolymers thereof, and ethylene vinyl acetate copolymers (c. 2, ll. 34-37).
9. With respect to claims 7 and 8, Sun teaches an open area of the apertured film ranges from about 5 percent to about 30 percent of the total area of the apertured film (c. 4, l. 23).
10. With respect to claim 9, Sun teaches a top layer 32 secured to the second major surface of the nonwoven fabric 24.
11. With respect to claim 10, Sun teaches the top layer of material is a microporous film (c. 4, l. 23).

Response to Arguments

Applicant's arguments with respect to claims 1, 3, 5 and 7-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ginger T Chapman/
Examiner, Art Unit 3761
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